

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LUCAS D. KENDALL, SCRAP MART)	
PROPERTIES, LLC and SCRAP MART LLC,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 4:21CV1353 HEA
)	
CITY OF VALLEY PARK, MISSOURI, et al.,)	
)	
Defendants.)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on Defendants’ Motion for Clarification, [Doc. No. 123], Plaintiffs’ Motion to Amend Dismissal Judgment or, in the Alternative, to Clarify the Dismissal Judgment, [Doc. No. 124], Plaintiffs’ Motion for Leave to File Third Amended Complaint, [Doc. No. 126].

Facts and Background

In its Opinion, Memorandum and Order dated June 12, 2023, the Court set out the factual background giving rise to this action. As such, facts and background will be restated as necessary for the purposes of this Opinion.

Discussion

In its March 30, 2024 Opinion, Memorandum and Order the Court dismissed Plaintiffs’ Second Amended Complaint for failure to state a claim under Rule 12(b)(6) of the Federal Rules of Civil Procedure. The Order detailed the

deficiencies in the Second Amended Complaint under *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The Court addressed the sufficiency of Plaintiffs' Second Amended Complaint. It did not address the merits of Plaintiffs' claims against Defendants and as such, there was no adjudication of those claims. The dismissal was, therefore, without prejudice. Plaintiffs did not, however seek leave to amend their claims.

With regard to Defendants' Motion for Clarification regarding their counterclaims, the Court is of the opinion that addressing the issue of supplemental jurisdiction is premature at this time as there is currently no viable complaint pending.

Plaintiffs have sought leave to file a Third Amended Complaint. Defendants are given leave to file a response to this motion within 10 days from the date of this Order. Any response and reply regarding the Motion for Leave should include any effect Judge Mason's Order in the pending Circuit Court case would have on the filing of a Third Amended Complaint.

Conclusion

Accordingly,

IT IS HEREBY ORDERED that Defendants' Motion for Clarification, [Doc. No. 123], is denied without prejudice.


IT IS FURTHER ORDERED Plaintiffs' Motion to Amend Dismissal

Judgment or, in the Alternative, to Clarify the Dismissal Judgment, [Doc. No. 124], granted to the extent addressed herein.

IT IS FURHER ORDERED that Plaintiffs' Motion for Leave to File Third Amended Complaint, [Doc. No. 126] is taken under submission, allowing Defendants 10 days from the date of this Order to file a Response to the Motion.

IT IS FURTHER ORDERED that Defendants' Motion for Hearing is denied.

Dated this 3rd day of December, 2024.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE